

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

AQUAVIT PHARMACEUTICALS, INC.,)	CASE NO. 1:10-cv-03351 (VEC)
Plaintiff,)	DECLARATION OF CHRISTINA H. BOST SEATON, ESQ. IN SUPPORT OF PLAINTIFF'S ORDER TO SHOW CAUSE FOR CONTEMPT
v.)	
U-BIO MED, INC.,)	
GLOBAL MEDI PRODUCTS, and)	
NYUN SHI EUM aka NYEON-SIK EUM)	
Defendants.)	
)	

I, Christina H. Bost Seaton, Esq. hereby declare, under penalty of perjury, as follows:

1. I am a member of the firm FisherBroyles, LLP (“FisherBroyles”), located at 445 Park Avenue, 9th Floor, New York, New York 10022, attorneys for Plaintiff Aquavit Pharmaceuticals, Inc. (“Plaintiff” or “Aquavit”) in the above-referenced action. I make and submit this declaration in connection with Plaintiff’s application for an order finding Defendants U-Bio Med, Inc. (“U-Bio Med”) and Nyun Shi Eum a/k/a Nyeon-Sik Eum (“Eum”) in contempt.

2. This application has been brought by Order to Show Cause because the Court has already found, via the Preliminary Injunction Order [DE 19] (the “PI Order”), that “Plaintiff is likely to suffer an immediate and irreparable injury if a preliminary injunction is not granted.”

3. On April 30, 2019, Plaintiff served Defendants with the PI Order by electronic mail at the three email addresses previously used for service of the Order to Show Cause and TRO [DE 20-7; DE 22-7]. Thus, as of April 30, 2019, Defendants have had actual knowledge of the PI Order.

4. Despite this, as detailed in the Memorandum of Law accompanying this Order to Show Cause, Defendants have flouted the proscriptions of the PI Order. Shockingly, for example, even after they retained counsel, Defendants have been “[f]und [r]aising for US lawsuit of Aquagold.” [DE 26 ¶ 12; DE 26-9 at 10] and Exhibit 1 below. Defendants also transferred assets out of their PayPal account, in violation of the PI Order and the Temporary Restraining Order [DE 3] and Exhibits 11 and 12, below.

5. In short, Defendants have continually demonstrated their unwillingness to abide by this Court’s orders, and Plaintiff, which is suffering irreparable harm as a result of Defendants’ acts, require urgent assistance from the Court.

6. For a detailed recitation of the basis for this application, the undersigned requests that the Court refer to the Memorandum of Law that Plaintiff has submitted with this application, which incorporates by reference the exhibits annexed hereto.

7. Attached hereto collectively as Exhibit 1 are true and correct copies of screenshots of U-Bio Med’s website (ubiomed.co.kr), which were taken by counsel on May 3, 2019, May 8, 2018, May 13, 2018, May 20, 2018, and May 22, 2018.

8. Attached hereto collectively as Exhibit 2 are screenshots from U-Bio Med’s website (ubiomed.co.kr), which were taken by counsel on May 3, 2019, May 8, 2019, May 13, 2019, May 20, 2019, and May 21, 2019.

9. Attached hereto collectively as Exhibit 3 are screenshots from U-Bio Med’s website (tappy.co.kr), which were taken by counsel on April 24, 2019, May 8, 2019, May 13, 2019, and May 20, 2019.

10. Attached hereto collectively as Exhibit 4 are screenshots from Defendants' "Corea Eum" Facebook page, which were taken on May 20, 2019, and which show Defendants using Plaintiff's Marks.

11. Attached hereto collectively as Exhibit 5 are screenshots from Defendants' "Corea Eum" Facebook page containing the May 21, 2019 post wherein Defendants sought to "fund raise" for this lawsuit.

12. Attached hereto collectively as Exhibit 6 are screenshots from Defendants' "@CoreaEum" Instagram page (<https://instagram.com/coreaeum/?hl=en>), which were taken by counsel on May 16, 2019 and May 21, 2019, and which show Defendants using Plaintiff's Marks, Plaintiff's Aquagold Image, and Plaintiff's "AQT" product codes.

13. Attached hereto collectively as Exhibit 7 are screenshots from Defendants' "@ubimed.korea" Instagram page (<https://instagram.com/ubimed.korea/?hl=en>), which were taken by counsel on May 21, 2019, and which show Defendants using Plaintiff's Marks, Plaintiff's Aquagold Image, and Plaintiff's "AQT" product codes.

14. Attached hereto as Exhibit 8 is a screenshot taken by counsel of a May 21, 2019 post from Defendants' "@CoreaEum" Instagram page (<https://instagram.com/coreaeum/?hl=en>), in which Defendants use Plaintiff's MICROCHANNEL TECHNOLOGY trademark, advertise sales of their infringing Tappy Tok-Tok device (which is accompanied by marketing materials using Plaintiff's Marks and images of Plaintiff's packaging) to the United States, make false claims regarding the origin, and false and misleading representations of fact, and intentionally seek to confuse consumers as to the affiliation of U-Bio Med with Aquagold.

15. Attached hereto as Exhibit 9 is a screenshot taken by counsel on May 21, 2019, of an April 29, 2019 post on the "@ubimed.korea" Instagram page

(<https://instagram.com/ubiomed.korea/?hl=en>), wherein Defendants seek to “fund raise” for this lawsuit by selling Counterfeit Products, and even use #aquavit, and respond “yes” when Forever Beauty Laser Clinic, which is located in Orlando, Florida, asked whether they were the “real a[q]ua gold,” in a transparent attempt to confuse consumers.

16. Attached hereto as Exhibit 10 are screenshots taken by counsel during the course of preparing for this application of Defendants’ “@regenaf.official” Instagram page (<https://www.instagram.com/regenaf.official>), wherein Defendants use Plaintiff’s Marks, including in postings made since the TRO and PI Orders were entered.

17. Attached hereto as Exhibit 11 is a pdf excerpt of an excel spreadsheet that was produced by PayPal, Inc. (“PayPal”) in response to the TRO and PI Orders. The excerpt is limited to the “transactions” sheet, and is filtered to only show transactions that occurred after the entry of the TRO. In addition, several columns containing irrelevant information and/or information that would need to be redacted under Federal Rules of Civil Procedure 5.2 have been hidden in the spreadsheet, effectively redacting those columns. The columns that have been hidden are columns B (account number), C (profile ID), D (tax ID), E (encrypted tax ID), F (parent tax ID), M (funding source), N (backup funding source), O (other financial number), P (bank account number), Q (bank HMAC), R (card number), S (card hash), T (card bin HMAC), U (issuer), AB (subject), AC (ACH return codes), AD (Auction Seller Username), AF (counterparty account number), AG (counterparty profile ID), AK (counterparty tax ID), AL (auction buyer username), AN (referring URL), AO (IP Address).

18. Attached hereto as Exhibit 12 is a pdf excerpt of another spreadsheet that was produced by PayPal in response to the TRO and PI Orders on May 20, 2019. Several columns containing irrelevant information and/or information that would need to be redacted under Federal

Rules of Civil Procedure 5.2 have been hidden in the spreadsheet, effectively redacting those columns. The columns that have been hidden are columns I (check sent address), J (subject), K (other IP), P (reserve), R (Masspay custom note), S (return codes), Z (seller Ebay ID), AA (Transaction ID), AF (item title), AG (item ID), AH (shipping and handling), AI (insurance), AJ (sales tax), AK (tip), AL (discount), AM (seller ID), AN (option 1 name), AO (option 1 value), AP (option 2 name), AQ (option 2 value), AR (auction id), AS (buyer ID), AT (item URL), AU (closing date), AV (escrow ID), AW (invoice ID), AX (reference tax ID), AZ (subscription), BA (custom number), and BB (receipt ID). Defendants' account number has also been redacted.

19. Attached hereto as Exhibit 13 is a true and correct copy of an email from PayPal to me confirming that Defendants did, in fact, withdraw their funds from the PayPal account mere hours before PayPal restrained Defendants' account.

20. Attached hereto as Exhibit 14 is a true and correct copy of the transcript of the hearing before the Court held on May 17, 2019.

21. Attached hereto as Exhibit 15 is a true and correct copy of the May 22, 2019 disclosures that Defendants served upon Plaintiff.

22. Plaintiff has made no prior application for the relief requested in this application.

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DATED: May 24, 2019
New York, New York

/s/ Christina H. Bost Seaton